



## ATTENTION

Probate cases on this calendar are currently under review by the probate examiners. Review of some probate cases may not be completed and therefore have not been posted.

If your probate case has not been posted please check back again later.

Thank you for your patience.

(1) Status Report of Personal Representative; (2) Petition for Approval of Settlement Agreement and (3) for Allowance of Attorneys' Fees for Extraordinary Services  
[Prob. C. 10830; 12200; CRC 7.702]

<b>DOD: 10/7/2005</b>		<b>ANTONETTE GUTIERREZ</b> , Executor, is petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>  1. Need Order
<b>Cont. from</b>			
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	<b>Inventory</b>		
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	<b>Citation</b>		
	<b>FTB Notice</b>		

**Petitioner states**, as personal representative, she was required to defend two litigation matters involving the estate styled as **Alanis v. Gutierrez**, Fresno Superior Court case no. 07CECG03628 (the "Alanis Matter") and **Renteria v. Gutierrez**, Fresno Superior Court case no. 07CECG03513 (the "Renteria Matter"). The Alanis matter resolved by summary judgment in favor of executor.

A bench trial was held for the Renteria matter, which concluded by a judgment in favor of the executor. Plaintiff in the Renteria matter, Raymond Renteria (in pro per) on 11/28/2011 filed a notice of appeal of the judgment entered against him. Raymond Renteria filed his opening brief on 5/22/2013. The Executor's respondent's brief is due to be filed on 8/20/2013. Given the pendency of the Renteria matter, the estate cannot be closed.

**Petition to Approve Settlement Agreement**  
Petitioner states an Order Determining Construction of Trust Instrument and Instructing Trustee was filed on 9/19/2011 in the matter of **Erlinda Gutierrez Trust**, Fresno County Superior Court case no. 11CEPR00097. Among other things, the Order Determining Construction authorized Antonette Gutierrez, as trustee, to sell the real property located at 479 S. Kingswood Parkway in Reedley (the "Lot"). Pursuant to the Order, Antonette Gutierrez listed the Lot for sale. During the marketing of the Lot for sale, it was discovered by the title company that record title to the Lot, which was previously believed to be held in the Trustee of the Erlinda Gutierrez Trust, is actually held simply in Erlinda Gutierrez's individual name.

**Please see additional page**

Reviewed by: KT

Reviewed on: 7/24/2013

Updates:

Recommendation:

File 2 - Gutierrez

As a result, the Lot is part of the estate subject to probate administration. In such case, the Lot would not pass under the terms of the Trust (to be held for the benefit of Aremi Alanis, Jr. ("A.J.") and Brandon Alanis ("Brandon"), to be distributed to them upon Brandon attaining age 25), but would instead pass under the Will of Erlinda Gutierrez (i.e.  $\frac{1}{2}$  to Antonette,  $\frac{1}{4}$  to A.J. and  $\frac{1}{4}$  to Brandon).

Antonette Gutierrez, Aremi Alanis, Sr. (Aremi Sr. is the guardian ad litem for A.J. and Brandon in the Alanis matter), A.J. and Brandon have entered into a settlement agreement and Mutual Release (the "Settlement Agreement") effective as of 4/26/2013. The Settlement is conditional upon approval by this court.

Petitioner requests the Court enter an order approving the Settlement Agreement and determining that the Decedent's estate be administered consistent with the Settlement Agreement.

**Petition for Approval of Compensation for Attorneys**

The calculation of statutory fees is \$9,374.22 computed on a fee base of \$318,710.98. The attorneys are not requesting any portion of the statutory fees at this time. The fee base and statutory fees will increase as a result of the inclusion in the decedent's estate of the Lot. A supplemental inventory and appraisal will be filed once the Settlement Agreement is approved.

Petitioner states Baker Manock & Jensen, PC has performed extraordinary legal services regarding the defense of the Decedent's estate in the Renteria matter. Baker Manock & Jensen, PC, is entitled to **reasonable compensation in the amount of \$80,000.00** as more particularly described in the Declaration in Support of Fees. Petitioner also requests **costs in the amount of \$4,901.99**.

**Wherefore, Petitioner requests this Court to Order that:**

1. The administration of the estate is allowed to continue;
2. The Settlement Agreement is approved;
3. All the acts and proceedings of the petitioner as personal representative be confirmed and approved;
4. Petitioner be authorized and directed to pay Baker Manock & Jensen, PC the sum of \$80,000, as extraordinary attorneys' fees and for costs advanced in the sum of \$4,901.999.

## (1) Motion to Disperse Funds and (2) Close Estate

<b>DOD: 4-6-06</b>		<b>LAYNE E. HAYDEN</b> , Executor and Trustee, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <b>Note:</b> Petitioner Layne Hayden, Trustee and Executor, states his attorney of record, George Gingo, is no longer licensed to practice law in California as of 1-1-13; therefore, this petition is filed by Mr. Hayden, pro se.  <u><b>SEE ADDITIONAL PAGES</b></u>
		Petitioner reminds the Court that he was advised not to distribute the Fremont Ave. residence until after the Estate Income Tax Clearance was issued by the Franchise Tax Board. The FTB issued their clearance on 12-31-13.	
		Petitioner indicates Medi-Cal notification also and states Medi-Cal does not have a file on the decedent.	
		Petitioner states the Weber Ave. property had a mortgage owed to Bayview and it was occupied by Sign-A-Rama, which was owned in part by beneficiary Jennifer Anooshian. Sign-A-Rama was responsible for paying a monthly rent in an amount sufficient to pay the mortgage plus insurance on the building. Bayview declared a default as Sign-A-Rama had ceased paying rent and insurance and there were no funds in the estate or trust from which to pay the mortgage and insurance. The Court was made aware that Bayview intended to foreclose, at which time the Court authorized the sale of the building. The property was sold for \$215,000.00. The business called Sign-A-Rama was previously distributed to the beneficiaries on 9-21-09.	
		Petitioner states there were two Mrs. Fields Cookie Stores. Both were closed.	
		Petitioner states the currently remaining assets consist solely of cash in the amount of \$23,429.89. Jennifer Anooshian has no interest in the cash assets and has been fully satisfied under the terms of the settlement agreement which provided for disbursement of the Fremont Ave. residence to her. Ms. Anooshian has also waived accounting.	
		Beneficiary Matthew Lemos has not yet received the disbursement to which he is entitled under the settlement agreement (\$10,000.00).	
		<u><b>SEE ADDITIONAL PAGES</b></u>	
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**Page 2**

Petitioner states the remaining debts consist of two types: 1) Debts that are for administrative expenses; and 2) Debts for general operating expenses of Sign-A-Rama, the fictitious name as it was owned and operated by the Decedent.

Petitioner states the administrative debts are in excess of \$20,000.00, but upon agreement of the creditors, those debts are compromised at a lesser sum. The debt owed to the bookkeepers (Tamiyasu, Smith, Horn and Braun Accountancy Corporation) is \$5,000.00 and the debt owed to the accountant (Moore/Grider) is \$6,500.00.

The \$5,000.00 payable to Tamiyasu, Smith, Horn and Braun Accountancy Corporation will also cover the cost to prepare the final tax return.

Petitioner states the general debts are no longer owed because the statute of limits has now run on all these debts and because the Trustee has contacted these creditors and none of them had a record of debt owed by Decedent.

There will be \$2,400.29 remaining, a sum which Petitioner requests the Court permit be paid to Gingo & Orth for services rendered to the Trustee.

**Petitioner requests the Court order the estate closed and the Trustee pay out the remaining \$23,429.89 as follows:**

- **\$10,000.00 to beneficiary Matthew Lemos**
- **\$5,000.00 to Tamiyasu, Smith, Horn and Braun Accountancy Corporation**
- **\$6,500.00 to Moore/Grider; and**
- **\$2,400.29 to Gingo & Orth**

**SEE ADDITIONAL PAGES**

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**NEEDS/PROBLEMS/COMMENTS:**

**Examiner's Note:** Although there are numerous technical issues with the presentation and format of this report due to the extensive and convoluted history of this estate, consolidation with trust matter, and disposition of various assets along the way, Examiner is not pointing out such technicalities as issues here, as it appears the "basics" are addressed (POH, debts, Probate Code §9202), and there was a settlement agreement previously reached in December 2012 between Petitioner and beneficiary Jennifer Anooshian. However, the following items should be addressed:

1. Petitioner includes a "proof of service" in the petition indicating that he mailed a copy of the document, prior to filing, to Edward Fanucchi and Matthew Lemos.

However, Petitioner has not served the mandatory Judicial Council form DE-120 Notice of Hearing as required by Probate Code on all parties entitled to notice, including Attorney Robert E. Bergin of Caswell Bell & Hillison, pursuant to his Request for Special Notice filed 4-18-11.

Pursuant to Probate Code §1252, this matter cannot go forward unless notice is served as required.

2. Petitioner references the December 2012 settlement agreement and the extensive history of this estate, and proposes to pay the heir, Matthew Lemos, his share pursuant to the agreement, with the remainder to pay accountant fees and Petitioner's most recent attorney George Gingo. However, the Court may require authority for such priority.

Although this estate case was consolidated with the trust litigation, that does not negate the requirements applicable to estates. Petitioner does not address statutory compensation pursuant to Probate Code §10800 et seq., specifically with regard to the following:

- §10814 – apportionment of statutory compensation between attorneys by agreement
- Prior amounts paid or received

Examiner notes that the Inventory and Appraisal filed 5-30-07 totaled \$1,177,357.57 and included:

- \$197,163.48 in cash (various accounts)
- various securities
- 3 vehicles
- Miscellaneous personal property
- Assets of Sign A Rama, a sole proprietorship located at 2425 N. Weber (\$375,000.00)
- Assets of Mrs. Field's Cookies, a sole proprietorship, located at River Park and Fashion Fair (\$265,000.00)
- 70% General Partnership interest in Creative Group, located at 2425 N. Weber (\$90,000.00)

As stated above, due to the extensive and convoluted history of this estate, Examiner has not made issue of the fact that this report does not specify the disposition of each inventoried asset.

Rather, the purpose of this note is to point out that statutory compensation takes priority over distributions to beneficiaries per code, and would be \$24,773.58 based on the I&A, although it might be more or less based on gains or losses (which as far as Examiner is concerned might be near impossible to determine at this point).

However, Petitioner has been represented by multiple counsel over the course of this case, all of whom may be entitled to a portion of the statutory compensation, whatever that may be, regardless of the agreement that was ultimately reached between Petitioner and beneficiary Jennifer Anooshian.

Therefore, need authority for distribution as prayed, and notice to all others who may be entitled.

<b>DOD: 7-9-10</b>		<p><b>LYNETTE LUCILLE DUSTON and WARREN LESLIE DAVIS</b>, Daughter and Son of the Decedent, are Petitioners.</p> <p>On 10-18-10, Decedent's Will dated 12-7-04 was admitted to probate and <b>MARY M. DAVIS</b>, Surviving Spouse, was appointed Executor with Full IAEA without bond on 10-18-10. Letters issued on 10-19-10.</p> <p><b>Petitioners state</b> more than 18 months have elapsed since Letters were issued and Mary has neither filed an account nor report of status of administration. Petitioners object to the continuation of Mary as the personal representative and seek to remove her as executor for the following reasons:</p> <ul style="list-style-type: none"> <li>• <b>§8502(c)</b>. Mary has wrongfully neglected the estate, or has long neglected to perform any act as personal representative.</li> <li>On 3-17-11, a substitution of attorney was filed in the proceeding. From that date until the original petition for removal was filed on 6-26-12, there had been no court action taken in this matter. Since then, the only action taken was to file another substitution of attorney and oppose the petition for removal.</li> <li>• <b>§8804(b)</b>. Mary has failed to file an inventory and appraisal within the prescribed time.</li> <li>• <b>§12200</b>. Mary has failed to render a report of the status of the administration.</li> <li>• <b>§8502(a)</b>. Mary has wasted, embezzled, mismanaged, and committed a fraud on the estate. Mary has, <i>inter alia</i>, admitted during a deposition that she had liquidated assets of the Decedent's estate which were specific bequests to one of the Petitioners to pay for her attorneys' fees and costs in her two civil actions against Petitioners.</li> <li>• <b>§8502(b)</b>. Mary is incapable of properly executing the duties of her office, or is otherwise not qualified for appointment as personal representative. Mary is 86 years old and has made claims for elder abuse in a lawsuit she filed against one of the Petitioners and has made representations that she is susceptible to undue influence.</li> </ul> <p>Petitioners cite authority in addition to the statutory references above regarding the Court's power to remove a personal representative for other cause, for example, adverse interest or hostile acts, and state removal of Mary as executor is necessary to protect the Decedent's estate and its heirs.</p> <p style="text-align: center;"><b><u>SEE ADDITIONAL PAGES</u></b></p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <p><b>Continued from:</b></p> <ul style="list-style-type: none"> <li>• 1-22-13</li> <li>• 3-8-13</li> <li>• 5-10-13</li> <li>• 6-28-13</li> </ul> <p><b>Note: Page 4B is Mary M. Davis' First and Final Account and Report of Executor and Petition For Its Settlement; For Allowance of Ordinary Executor Commissions, Ordinary and Extraordinary Attorneys' Fees and For Final Distribution filed 6-14-13.</b></p> <p><b>Note: This matter is also set for Settlement Conference at 10:30 on 7-29-13 and set for Court Trial at 10:00 on 8-2-13.</b></p> <p><b>Reviewed by:</b> skc</p> <p><b>Reviewed on:</b> 7-24-13</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 4A - Davis</b></p>	
<b>Cont. from 012213, 030813, 051013, 062813</b>				
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Petitioners state it is also proper for this Court to order Mary to account which shall include both a financial statement and report of administration of the estate, and specifically show the condition of the estate. Furthermore, it is proper for the Court to reduce compensation of Mary and her attorneys by an appropriate amount.

Petitioners state they are entitled to appointment as personal representatives of the estate because they were nominated as successor co-executors in the event Mary shall for any reason fail to qualify or cease to act as executor.

It is hereby requested that this Court appoint Petitioners as successor co-executors to serve without bond and with full IAEA.

**Petitioners pray as follows:**

1. That citation issue to Mary M. Davis to show cause why she should not be removed as personal representative;
2. The Court forthwith suspend the powers of Mary M. Davis as personal representative and revoke the Letters issued 10-18-10;
3. For an order to appoint Petitioners as personal representatives with Full IAEA without bond;
4. For an order that Mary M. Davis file an account of the administration in accordance with Probate Code § 10900 and specify a reasonable time within which the account must be filed, which Petitioners suggest should be no later than 60 days from the date of her removal;
5. For an order that Mary M. Davis surrender all property in her possession belonging to the estate of the Decedent to the duly appointed and qualified successor co-executors;
6. For attorney's fees and costs of suit incurred herein; and
7. For such other orders and further relief as the Court deems just and proper.

**SEE ADDITIONAL PAGES**



**Mary M. Davis' Fourth Report of Status of Administration of Estate filed 5-6-13 states:** The Final I&A was filed concurrently with this status report. Executor has retained Robert L. Sullivan of McCormick Barstow to associate in as co-counsel with Farley Law Firm to assist with the filing and account and any final matters to close the estate.

Since the last status hearing, two new issues requiring the Court's assistance have emerged:

1. **Deposition:** In the recently settled partnership litigation against Executor, Executor was subjected to a grueling deposition by Petitioners' counsel, Dias Law Firm. As such, the anticipation of another deposition has been the source of anxiety and stress to the Executor.

Although Executor and counsel do not contest Petitioners' right to depose Executor, in an effort to shield Executor from improper and unnecessary stress and inquiries, counsel has sought to narrow the parameters of the deposition, without success. Correspondence attached.

Contrary to Petitioners' assertions that Executor is seeking to avoid her deposition, Executor seeks to narrow the scope of her deposition to disallow Peittioners' fishing expedition and inquiries that are irrelevant and premature. The Executor's deposition after the filing of an account and report, barring inquiries into incompetency and those matters better directed to the accountant, would serve to effectuate a more orderly, productive, and cost effective deposition. Executor respectfully requests the Court's determination accordingly.

2. **Antiques:** I&A Partial #2 filed 2-13-13 includes Decedent's one-half community property interest in an antique table and chair and other furniture, furnishings and personal effects for a total of \$15,000 (\$7,500 to Decedent's interest). Petitioner contend that the I&A does not adequately describe and account for these items. After correspondence, and although Executor believes the I&A adequately includes these items, Executor is in the process of retaining the services of an appraiser to inventory and appraise the antiques, which is expected the last week of June 2013. Therefore, until the Supplemental I&A can be submitted to the Probate Referee and appraisal is complete, a final account cannot be filed.

**Executor therefore respectfully states that good cause exists to:**

- 1) Extend the time to file an account to a date after receipt of the Supplemental I&A;
- 2) Disallow inquiries at Executor's deposition regarding, seeking to determine, and otherwise addressing, mentioning, or referring to the Executor's competency, pending further order of the Court;
- 3) Disallow inquiries regarding the legal services rendered to the Executor pending further order of the Court; and
- 4) The Executor's deposition is to be scheduled to a date after the filing of the account and report in this matter.

**UPDATE: Page 4B is Mary M. Davis' First and Final Account and Report of Executor and Petition For Its Settlement; For Allowance of Ordinary Executor Commissions, Ordinary and Extraordinary Attorneys' Fees and For Final Distribution filed 6-14-13. See Page 4B.**

Atty Farley, Michael L., and Sullivan, Robert L., Jr., (for Mary M. Davis – Executor – Petitioner)  
 Atty Dias, Michael A. (for Lynette Lucille Duston and Warren Leslie Davis – Contestants)

(1) First and Final Account and Report of Executor and Petition for Its Settlement;  
 (2) for Allowance of Ordinary Executor Commissions, (3) Ordinary and Extraordinary Attorneys' Fees and for (4) Final Distribution [Prob. C. 11640, 11002, 10800, 10810 & 10811]

<b>DOD: 7-9-10</b>		<p><b>MARY M. DAVIS</b>, Surviving Spouse and Executor with Full IAEA without bond, is Petitioner.</p> <p><b>Account period: 7-10-10 through 5-15-13</b></p> <p>Accounting: \$1,217,286.05          Beginning POH: \$1,084,882.64  <b>Ending POH: \$1,085,038.94</b></p> <p>(All community property consisting of \$2,896.94 cash, a 33.33% partnership interest in Whitney Oaks Dairy, a California partnership, and a 50% community property interest in various vehicles, personal property, and real property in Riverdale, Fresno County, CA)</p> <p><b>Liability: \$96,644.34</b> owing by the estate to Petitioner Mary M. Davis allocable to the estate with reference to the two litigated civil actions plus the ongoing petition to remove her as Executor filed by Lynette Duston and Warren Davis in this probate estate.</p> <p><b>Executor (Statutory): \$24,206.42</b></p> <p><b>Attorneys (Statutory): \$24,206.42</b></p> <p>During the course of administration, Petitioner has been represented by various counsel, including Robert W. Gin, William J. Keeler, Kenton J. Klasson, Michael L. Farley, and Robert L. Sullivan, Jr. Petitioner states during the period for which attorneys Keeler and Klassen were attorneys of record for the estate, no substantial ordinary legal services of any kind were rendered in connection with the ordinary administration of the estate. Petitioner proposes allocation of statutory fees as follows:</p> <ul style="list-style-type: none"> <li>\$2,532.65 to Robert W. Gin, of Griswold, LaSalle, Cobb, Dowd, &amp; Gin, LLP</li> <li>Balance of \$21,673.77 to Michael L. Farley and Robert L. Sullivan, Jr., in their respective firms</li> </ul> <p><b>Attorneys (Extraordinary):</b></p> <ul style="list-style-type: none"> <li>McCormick Barstow LLP \$5,412.00 (per itemized declaration attached as Exhibit B)</li> </ul> <p><b><u>SEE ADDITIONAL PAGES</u></b></p>	<b>NEEDS/PROBLEMS/COMMENTS:</b>	
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**Petitioner states 11CECG00872** *Mary M. Davis v. Lynette Lucille Duston and Douglas Jon Duston* was an elder abuse action involving a dispute between the executor and her daughter and son-in-law concerning the title to two residences in Cayucos, CA. That matter was settled and dismissed on 7-28-12.

**Petitioner states 11CECG03047** *Mary M. Davis v. Warren Leslie Davis* was an action for involuntary dissolution of Whitney Oaks Dairy, a California general partnership, the value of which was determined in the 3<sup>rd</sup> and Final I&A filed 5-6-13. Among the matters at issue in this action were the ownership and value of the partnership; therefore, Petitioner was unable to file the final I&A or prepare an accounting until such time as this matter was settled or otherwise concluded.

**Petitioner states** the value of the estate's interest in the partnership as of the decedent's date of death was determined primarily on the basis of the partnership's major assets: land, dairy equipment, livestock, pool quotas and retains. Following Decedent's death, the dairy business had substantial ongoing losses as a result of which the lender for the partnership's operating line of credit at Bank of the West put considerable pressure upon the partnership to terminate the active conduct of the dairy business and sell livestock and equipment to pay the line of credit, which was in default. Petitioner did so, and then leased the real property with an option to purchase for a purchase price of \$6,000,000.00 for a term of seven (7) years. The option also provided for the reservation of a life estate in the residence occupied by the decedent's surviving spouse. The value of the estate's interest in the partnership was determined, in part, on the basis of the actual sale prices of the livestock equipment, and pool quotas and upon the appraisal of the real property. The livestock equipment, and pool quotas were all sold at full fair market value prices determined in arm's length sales. The option price was fair and equitable based upon the appraisal value of the real property determined by the appraisers and the probate referee.

**Distribution pursuant to Decedent's will: Mary M. Davis as Trustee of THE FRED E. DAVIS BYPASS TRUST created under Paragraph B(3) of Article FIFTH of the Decedent's Will (the "Bypass Trust")**

**Note: An Objection was filed 7-8-13 by Lunette Lucille Duston and Warren Leslie Davis.**

**SEE ADDITIONAL PAGES**

**Objection filed 7-8-13 by Lunette Lucille Duston and Warren Leslie Davis states:**

- Contestants are children of the Decedent and have standing to object as beneficiaries of the testamentary trust.
- Contestants object to the valuation of the Decedent's interest in Whitney Oaks Dairy. Contestants state the Decedent owned **more than a 33.33% interest** in the partnership at the close of this accounting period. See details with reference to partnership agreement reached in litigation, and dispute regarding whether Mrs. Davis purchased certain interest in her individual capacity or in another capacity. The parties have agreed to have Retired Judge Howard Broadman arbitrate the interpretation of the settlement agreement, but an arbitration date is not set. Contestants state Mrs. Davis' position regarding the interpretation of the agreement is in conflict with her duty as Executor of the will and personal representative of the estate.
- Failure to fairly represent to this Court the Decedent's actual interest in the partnership is a breach of her duty to account for all of the decedent's estate coming into her possession: Probate Code § 1061-1063. Additional duties and authority cited re removal. See petition at Page 4A. Contestants state that Mrs. Davis claims that her failure to file I&A for more than two years was because of the litigation. In the partnership litigation, settled in Feb. 2013, Mrs. Davis purportedly only realized a personal benefit from the settlement, despite the two year delay caused to the estate. In doing so, Mrs. Davis has grossly failed to exercise ordinary care and diligence in pursuing claims on behalf of the estate and has failed to protect estate assets. Contestants state that Mrs. Davis' claim that she is the sole purchaser of Warren Leslie and Bernadette Davis' interest in Whitney Oaks Dairy may be an indirect purchase of the Estate's interest without a court order. Mrs. Davis has placed her own personal interests above those of the estate and should be surcharged for the damages caused to the estate with interest from the date of the Decedent's death, and removed.
- Contestants object to the valuation of the fair market value and carry value of Whitney Oaks Dairy, the partnership, as stated in the accounting, for several reasons. The carry value is unchanged from the FMV stated in the earlier I&A, despite dramatic events affecting the assets and liabilities of the partnership after the decedent's death. The FMV is arbitrary and not supported by facts. The accounting is altogether confusing because it lists carry value and FMV, but the assessments of statutory fees are based on the carry value, not the reduced FMV.
- Contestants state that after the Decedent's death, Mrs. Davis paid various personal bills out of the Whitney Oaks Dairy account, as well as legal fees that she is asking to be reimbursed for. Mrs. Davis did not account for continuing to operate a business owned by the Decedent for a period of greater than six months, entering into a lease agreement for a period of greater than two years, granting an option to purchase real property owned by the partnership, all without notice as required by the IAEA.

**SEE ADDITIONAL PAGES**

**Objection (Cont'd):**

- Contestants state Mrs. Davis failed to account for events of the partnership since the Decedent's death, including liabilities. Probate Code § 1061 (4) (5) (7) (8). See additional details and citations. Contestants state Mrs. Davis must be surcharged for losses caused by her failure to appropriately and timely account.
- Contestants state Mrs. Davis has commingled her personal finances with the partnership, and thereby with the estate. See details and citations.
- Contestants object to the stated advances as presented in Schedule A-1 including reimbursement for legal fees in furtherance of the Cayucos litigation on the grounds that the estate held no interest in that property upon the death of the decedent. Details provided re joint tenancy. There was no benefit to the estate, only to Mrs. Davis personally. Such reimbursement should be denied.
- Contestants object to the extraordinary fees listed in Schedule A-1 as legal fees and costs related to the Cayucos litigation because they are neither just nor reasonable and represent a breach of her fiduciary duty to the estate.
- Contestants object to reimbursement of extraordinary fees purportedly advanced by Mrs. Davis, as at least some of those fees were paid by Whitney Oaks Dairy and not by Mrs. Davis. See details and citations. Reference to Whitney Oaks ledger. Contestants point to specifics, and believe an in-depth review of the books of Whitney Oaks Dairy would expose further amounts paid by Whitney Oaks Dairy, or essentially, the Decedent. This is not only problematic because Mrs. Davis is looking to be reimbursed for expenses borne by the estate, but if these fees were already paid, that means extraordinary fees were paid without Court approval. Furthermore, as the amounts in the ledger differ from the amounts requested for reimbursement, if the accounting is approved, the Decedent will have paid for services not addressed in this accounting. The Court should surcharge Mrs. Davis for any attorney's fees paid with partnership assets with interest.
- Contestants object to reimbursement of extraordinary fees purportedly advanced by Mrs. Davis, as she has supposedly paid in excess of \$180,000.00 in attorney's fees from her separate property and Contestants doubt Mrs. Davis had such a source of separate property. The majority of the couple's property was either a community asset or jointly held with Whitney Oaks Dairy. Therefore, what source of separate property Mrs. Davis had to advance fees is confusing. Unless she can establish that these funds have been from a separate property source, the Court should deny the claim for advanced monies.

**SEE ADDITIONAL PAGES**

**Page 5****Objection (Cont'd):**

- Contestants object to the extraordinary fees listed in Schedule A-1 as related to the defense of their petition for removal because the action is still pending. See details in petition.
- Contestants argue that insufficient detail is provided in the accounting to support request for extraordinary services. Cal. Rules of Court 7.702.
- Contestants believe that insufficient detail has been provided to justify repayment of the 10-7-12 advance to McCormick Barstow (Schedule A-1, Page 2, Line 10). See details.
- Contestants object to request for reimbursement of advanced funds without specificity of what assets will be disposed of to reimburse these funds. See details.
- Contestants object to the statutory commissions and attorney's fees requested by the personal representative in Exhibit B on numerous grounds: See details.
- Contestants object to the valuations of the houses scheduled as items 2-5 of Schedule D. See details.
- Contestants object to the delay of the administration and cite Probate Code § 12200 re reduction of compensation.
- Contestants object to multiple disbursements in Schedule C.
- Contestants object to proposed distribution of "all antiques owned by the Decedent and his surviving spouse on the Decedent's date of death, as the petition clearly indicates the value has not yet been determined.

**Contestants pray that the Court suspend the powers of Mary M. Davis as personal representative pending investigation of the charges, removing her as personal representative and revoking Letters, appointing Contestants as personal representatives with Full IAEA without bond, that Mary M. Davis surrender all property in her possession belonging to the estate to Contestants as successor executors, surcharging Mary M. Davis for all losses caused by neglect, fraud, commingling, conflict, etc., charging interest at the legal rate for surcharge, for attorney's fees and costs of suit incurred herein, that the Court order a corrected I&A to be prepared, and for such other orders as this Court deems proper.**

**See additional declarations in support filed by Contestants.  
See also responses filed by attorneys for Petitioner.**

Atty Burnside, Leigh W

Petition for Settlement of First and Final Account and Report of Trustee; for  
Approval of Trustee's Fees and Attorney's Fees and Costs; and for Approval of  
Payment of Professional Services [Prob. C. 16063, 17200, CRC Rule 7.902]

Age:		NEEDS/PROBLEMS/COMMENTS:
DOD:		
Cont. from		
	Aff.Sub.Wit.	
	Verified	
	Inventory	
	PTC	
	Not.Cred.	
	Notice of Hrg	
	Aff.Mail	
	Aff.Pub.	
	Sp.Ntc.	
	Pers.Serv.	
	Conf. Screen	
	Letters	
	Duties/Supp	
	Objections	
	Video Receipt	
	CI Report	
	9202	
	Order	
	Aff. Posting	
	Status Rpt	
	UCCJEA	
	Citation	
	FTB Notice	
		CONTINUED TO 8-22-13 Per Attorney request
		Reviewed by: skc
		Reviewed on: 7-23-13
		Updates:
		Recommendation:
		File 5 – Rendino

**Dale W. Balagno Revocable Trust**

Armo, Lance E. (for Joseph Balagno – Beneficiary – Petitioner)

Case No. 13CEPR00389

**Petition to Remove Trustee, to Appoint Public Administrator as Trustee, and To  
Compel Trustee to Account**

<b>Dale W. Balagno</b> <b>DOD: 3-16-13</b>		<b>JOSEPH BALAGNO</b> , Beneficiary, is Petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <u>Continued from 6-24-13</u>  <u>SEE ADDITIONAL PAGES</u>																																													
<b>Cont. from 062413</b>		<b>Petitioner states:</b>																																														
<table border="1"> <tr><td>Aff.Sub.Wit.</td><td></td></tr> <tr><td>✓ Verified</td><td></td></tr> <tr><td>Inventory</td><td></td></tr> <tr><td>PTC</td><td></td></tr> <tr><td>Not.Cred.</td><td></td></tr> <tr><td>Notice of Hrg</td><td>X</td></tr> <tr><td>Aff.Mail</td><td>X</td></tr> <tr><td>Aff.Pub.</td><td></td></tr> <tr><td>Sp.Ntc.</td><td></td></tr> <tr><td>Pers.Serv.</td><td></td></tr> <tr><td>Conf. Screen</td><td></td></tr> <tr><td>Letters</td><td></td></tr> <tr><td>Duties/Supp</td><td></td></tr> <tr><td>Objections</td><td></td></tr> <tr><td>Video Receipt</td><td></td></tr> <tr><td>CI Report</td><td></td></tr> <tr><td>9202</td><td></td></tr> <tr><td>Order</td><td>X</td></tr> <tr><td>Aff. Posting</td><td></td></tr> <tr><td>Status Rpt</td><td></td></tr> <tr><td>UCC/JEA</td><td></td></tr> <tr><td>Citation</td><td></td></tr> <tr><td>FTB Notice</td><td></td></tr> </table>	Aff.Sub.Wit.		✓ Verified		Inventory		PTC		Not.Cred.		Notice of Hrg	X	Aff.Mail	X	Aff.Pub.		Sp.Ntc.		Pers.Serv.		Conf. Screen		Letters		Duties/Supp		Objections		Video Receipt		CI Report		9202		Order	X	Aff. Posting		Status Rpt		UCC/JEA		Citation		FTB Notice		<ul style="list-style-type: none"> <li>• <b>The Revocable Trust of Dale W. Balagno</b> was established via Declaration of Trust dated 3-6-13. The trust corpus consists primarily of bank and investment accounts held with several banking institutions.</li> <li>• The Trustee of the Trust is <b>Nicholas T. Kovacevich</b> and purports to be acting in that capacity.</li> <li>• The beneficiaries are <b>Lori Jo Brown, Linda Sue Balagno, Joseph Dale Balagno (Petitioner), and Mary E. Pond.</b></li> <li>• Petitioner is informed and believes that the Trustee has conveyed real property, other accounts, and personal property of the trust to Mary E. Pond without accounting, notice or acknowledgment whatsoever to Petitioner and other beneficiaries. Only upon Petitioner's contacting the various banking and investment institutions did Petitioner learn of such. See attached Trust Transfer Deed dated 3-27-13.</li> <li>• Petitioner also believes the trustee has distributed other investment accounts to Ms. Pond or to himself without notice, and/or is concealing the identity of other assets comprising the trust estate. Petitioner is informed and believes that certain accounts have been closed or blocked without notice or accounting to beneficiaries.</li> <li>• Petitioner has asked the trustee for a list of assets; however, he has refused to comply with such request. Petitioner has been forced to freeze various accounts as a result.</li> <li>• Petitioner seeks an order removing the trustee on grounds that he refuses to respond after demands having been made, conveys property without notice or accounting to either Ms. Pond or himself, changes mailing addresses and ownership of various accounts to the name of Ms. Pond, and refuses to correspond or communicate with Petitioner and other beneficiaries.</li> </ul>	
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		<u>SEE ADDITIONAL PAGES</u>	<table border="1"> <tr><td>Reviewed by: skc</td></tr> <tr><td>Reviewed on: 7-24-13</td></tr> <tr><td>Updates:</td></tr> <tr><td>Recommendation:</td></tr> <tr><td>File 6 – Balagno</td></tr> </table>	Reviewed by: skc	Reviewed on: 7-24-13	Updates:	Recommendation:	File 6 – Balagno																																								
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File 6 – Balagno																																																



## Page 2

**Petitioner states** a trustee may be removed on petition under §§ 17200, 15642a for breach or other good cause, including hostility. Remedies include compel performance, enjoin trustee from further breach, equitable lien on property. Petitioner believes the trustee is intentionally refusing to communicate so to make further conveyances to Ms. Pond or himself without providing notice or accounting to other beneficiaries.

**Petitioner prays for an Order:**

1. Removing Nicholas T. Kovacevich as trustee of the Trust of Dale W. Balagno;
2. Ordering Nicholas T. Kovacevich account for his actions as trustee;
3. Appointing the Public Administrator as successor trustee;
4. Ordering Nicholas T. Kovacevich bear his own costs and attorney fees for defense of this action;
5. Ordering Nicholas T. Kovacevich retitle the trust estate property in the name of the trust;
6. For all costs of suit incurred; and
7. For such other and further relief as the Court may deem just and proper.

**Petitioner provides various citations for the request.**

**See Petition and supplemental declaration filed 6-19-13.**

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**NEEDS/PROBLEMS/COMMENTS:****Examiner's Note (Relevant dates/events):**

- DW Balagno created trust on 3-6-13
- DW Balagno DOD 3-16-13
- Letter dated 4-5-13 from Linda Balagno and Lori Brown imposed deadline of 4-11-13 for info
- Letter dated 4-16-13
- Petition filed 5-9-13 (without copy of trust or other relevant information, such as the date of death of the settlor)
- Declaration w/ copy of trust and additional information per Examiner Notes was filed 6-19-13
- Notice of Hearing was mailed on 6-24-13.

**Examiner's Note (Trust details):**

- DW Balagno created trust on 3-6-13 (10 days prior to his death on 3-16-13)
- It appears the trust was created by an LDA (not an attorney)
- It appears that Mary E. Pond (unknown relation) also created a trust on the same date as the Settlor and transferred her property into it.
- Trust names three Successor Trustees: Nicholas T. Kovacevich (a local CPA), Jo Ann Barnes (unknown relation), and Mary E. Pond (unknown relation)
- The Trust itself specifically distributes personal property to DW Balagno's three children and Mary E. Pond equally.
- The Trust Property Schedule defines personal property, and then goes on to state that the real property at 4157 E. Alta in Fresno is "**NOT IN TRUST**" and is held in joint tenancy with Linda Sue Balagno, one of the daughters.

**SEE ADDITIONAL PAGES**

**NEEDS/PROBLEMS/COMMENTS (Continued):**

1. The petition states Petitioner has asked the trustee for a list of assets, but the trustee refused to comply with such request. However, this petition to remove the trustee was filed less than 60 days after the death of the settlor.

Petitioner's declaration attaches a copy of a letter from beneficiaries Linda Balagno and Lori Brown (not Petitioner) dated 4-5-13 (3 weeks after the death of the settlor) demanding a list of items by 4-11-13, which gave the new trustee 6 days to comply, only three weeks after becoming successor trustee. Attorney Armo sent another letter on 4-16-13.

Examiner notes that Probate Code § 16061.7(f) allows the trustee 60 days for just the initial notification to beneficiaries of the status of the trust changing to irrevocable, and Probate Code 16061 requires reasonable request by beneficiary for information relating to the administration of the trust. Further, Probate Code § 17200(b)(7)(C) allows a petition to be filed under this section if the trustee has failed to account within 60 days of reasonable request.

This petition was filed less than 60 days after the death of the settlor, and it does not appear that the trustee was afforded appropriate time for response before filing. Petitioner's declaration at #9 states that now 60 days have elapsed. **However, this petition still appears to have been filed prematurely. Need authority.**

2. Petitioner states the attached deed **evidences conveyance of trust real property** to Ms. Pond. However, the attached deed is a transfer of unspecified real property from Grantor Mary E. Pond to Mary E. Pond, Trustee of the Mary E. Pond Revocable Trust **dated 3-6-13 (Settlor still alive)**, with no mention of this trust or trustee, and no address specified to clarify for the Court the property that is the subject of this petition.

When Petitioner provided a declaration in response to Examiner Notes for the last hearing, Petitioner explained that the property was originally held in the trust of Dale Balagno, and the attached deed presupposes that title to the subject property was conveyed to Mary Pond previously, without notice to Petitioner or beneficiaries.

However, again, the deed is dated 3-6-13, which is prior to the Settlor's death. If property was transferred to Ms. Pond prior to that date, then the alleged transfer occurred prior to the Settlor's death. Further, the copy of the Trust and Trust Property Schedule provided with the declaration does not appear to reference any real property subject to the trust. Rather, the body of the trust specifically references personal property only, and the Trust Property Schedule specifically states that the Settlor's real property located at 4157 E. Alta in Fresno is **"NOT IN TRUST"** and is **held in joint tenancy with LINDA SUE BALAGNO**.

Examiner notes that the trust itself appears to be a template-type document prepared by a document assistant, rather than an attorney, with a designated spot to list real property, but instead the language added states that the Settlor's real property located at 4157 E. Alta in Fresno is "NOT IN TRUST" and is held in joint tenancy with LINDA SUE BALAGNO.

**Therefore, if this petition goes forward, need clarification: What property is Petitioner alleging was an asset of the trust that the successor trustee Nicholas T. Kovacevich improperly transferred to Ms. Pond, and when?**

3. Alternate named successor trustee **Jo Ann Barnes** was not served with Notice of Hearing. Need proof of service of Notice of Hearing at least 30 days prior to the hearing on Jo Ann Barnes. Probate Code § 17203(a)(1).

**SEE ADDITIONAL PAGES**

Page 4

**NEEDS/PROBLEMS/COMMENTS (Continued):**

4. Probate Code § 15660.5 provides the requirements for appointment of the Public Administrator, including a finding that no other qualified person is willing to act as trustee. Examiner notes that the trust names two alternate successor trustees, Jo Ann Barnes and Mary E. Pond. Jo Ann Barnes was not served with notice of hearing (see #3 above). The Court may require clarification in order to make the findings necessary to appoint the Public Administrator.
5. **If this petition goes forward, need consent to serve from Public Administrator.** Probate Code § 15660.5(a)(2)(B). *Note that Probate Code § 15660.5(a)(2)(A) allows the Court to appoint the Public Administrator to if the trust is to immediately be distributed according to its terms. However, this does not appear to be the case. Therefore, need consent per Probate Code § 15660.5(a)(2)(B).*

**Petition for Probate of Will and for Letters Testamentary; Authorization to  
Administer Under IAEA (Prob. C. 8002, 10450)**

<b>DOD: 02/23/2013</b>		<b>GEORGE R. YAMAGATA</b> , son/named executor without bond, is petitioner.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
<b>Cont. from</b>		Full IAEA – o.k.	
✓	<b>Aff.Sub.Wit.</b>		
✓	<b>Verified</b>	Will dated: 07/20/1992	
	<b>Inventory</b>		
	<b>PTC</b>	Residence: Reedley	
	<b>Not.Cred.</b>	Publication: The Reedley Exponent	
✓	<b>Notice of Hrg</b>		
✓	<b>Aff.Mail</b>	w/	
	<b>Aff.Pub.</b>		
	<b>Sp.Ntc.</b>		
	<b>Pers.Serv.</b>		
	<b>Conf. Screen</b>		
	<b>Letters</b>	x	
✓	<b>Duties/Supp</b>		
	<b>Objections</b>		
	<b>Video Receipt</b>		
	<b>CI Report</b>		
	<b>9202</b>		
✓	<b>Order</b>		
	<b>Aff. Posting</b>		
	<b>Status Rpt</b>		
	<b>UCCJEA</b>		
	<b>Citation</b>		
	<b>FTB Notice</b>		

  

<b>Estimated value of the Estate</b>	
Personal property -	\$25,950.00
Real property -	\$175,000.00
Total:	\$200,950.00

  

Probate Referee: Steven Diebert

  

**Note: If the petition is granted status hearings will be set as follows:**

- **Friday, 01/03/2014 at 9:00a.m. in Dept. 303** for the filing of the inventory and appraisal and
- **Friday, 10/03/2014 at 9:00a.m. in Dept. 303** for the filing of the first account and final distribution.

Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.

  

<b>Reviewed by:</b> LV
<b>Reviewed on:</b> 07/24/2013
<b>Updates:</b>
<b>Recommendation:</b> Submitted
<b>File 7 – Yamagata</b>

<b>DOD: 02/20/2013</b>	<b>THERESA NUTE</b> , spouse, and <b>TOM M. NUTE</b> , son, are petitioners.	<b>NEEDS/PROBLEMS/COMMENTS:</b>
	40 days since DOD.	
<b>Cont. from</b>	No other proceedings	
<input type="checkbox"/> <b>Aff.Sub.Wit.</b>		
<input checked="" type="checkbox"/> <b>Verified</b>	I&A - <b>\$81,418.00</b>	
<input checked="" type="checkbox"/> <b>Inventory</b>		
<input type="checkbox"/> <b>PTC</b>		
<input type="checkbox"/> <b>Not.Cred.</b>	Decedent died intestate.	
<input checked="" type="checkbox"/> <b>Notice of Hrg</b>	Petitioners request Court determination that decedent's 50% interest in real property defined as Lot 138 of Tract No. 1976, Van Ness Boulevard Estates No. 3 in the County of Fresno, State of California pass 25% to Theresa Nute and 25% to Tom M. Nute pursuant to intestate succession.	
<input checked="" type="checkbox"/> <b>Aff.Mail</b>		
<input type="checkbox"/> <b>Aff.Pub.</b>		
<input type="checkbox"/> <b>Sp.Ntc.</b>		
<input type="checkbox"/> <b>Pers.Serv.</b>		
<input type="checkbox"/> <b>Conf. Screen</b>		
<input type="checkbox"/> <b>Letters</b>		
<input type="checkbox"/> <b>Duties/Supp</b>		
<input type="checkbox"/> <b>Objections</b>		
<input type="checkbox"/> <b>Video Receipt</b>		
<input type="checkbox"/> <b>CI Report</b>		
<input type="checkbox"/> <b>9202</b>		
<input checked="" type="checkbox"/> <b>Order</b>		
<input type="checkbox"/> <b>Aff. Posting</b>		
<input type="checkbox"/> <b>Status Rpt</b>		
<input type="checkbox"/> <b>UCCJEA</b>		
<input type="checkbox"/> <b>Citation</b>		
<input type="checkbox"/> <b>FTB Notice</b>		
		<b>Reviewed by:</b> LV
		<b>Reviewed on:</b> 07/25/2013
		<b>Updates:</b>
		<b>Recommendation:</b> Submitted
		<b>File 8 – Nute</b>

Atty Duque, Santos Robert (pro per – cousin/Petitioner)

Atty Duque, Tara Lynn (pro per – cousin's spouse/Petitioner)

## Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Bentley, 2 months	<b><u>NO TEMPORARY REQUESTED</u></b>		<b>NEEDS/PROBLEMS/COMMENTS:</b>
	<b>SANTOS ROBERT DUQUE and TARA LYNN DUQUE</b> , second cousins, are Petitioners.		<b>This petition is for Bentley only. Petitioners were appointed as guardians for Valentina on 04/16/12.</b>
	Father: <b>UNKNOWN</b> – Declaration of Due Diligence filed 05/24/13		1. Need Notice of Hearing.
<b>Cont. from</b>	Mother: <b>GRACE MARTINEZ</b> – Consent & Waiver of Notice filed 05/24/13		2. Declaration of Due Diligence filed 05/24/13 states that the father is unknown. If diligence is not found, need proof of personal service at least 15 days before the hearing of Notice of Hearing with a copy of the <i>Petition for Appointment of Guardian of the Person</i> or Consent & Waiver of Notice for:
<input type="checkbox"/> Aff.Sub.Wit.			- Father (unknown)
<input checked="" type="checkbox"/> Verified			3. Declaration of Due Diligence filed 05/24/13 states that the paternal grandparents are unknown. If diligence is not found, need proof of service by mail at least 15 days before the hearing of Notice of Hearing with a copy of the <i>Petition for Appointment of Guardian of the Person</i> or Consent & Waiver of Notice for:
<input type="checkbox"/> Inventory			- Paternal grandparents (unknown)
<input type="checkbox"/> PTC			
<input type="checkbox"/> Not.Cred.			
<input checked="" type="checkbox"/> Notice of Hrg			
<input checked="" type="checkbox"/> Aff.Mail	w/	Paternal grandparents: UNKNOWN – Declaration of Due Diligence filed 05/24/13	
<input type="checkbox"/> Aff.Pub.			
<input type="checkbox"/> Sp.Ntc.			
<input type="checkbox"/> Pers.Serv.	x	Maternal grandfather: ARMANDO MARTINEZ - deceased	
<input checked="" type="checkbox"/> Conf. Screen		Maternal grandmother: MARY CHACON – served by mail on 07/02/13	
<input checked="" type="checkbox"/> Letters		<b>Petitioners states</b> Bentley needs a family to care for him. His mother is unstable and mentally unable to care for him. His father is unknown. Petitioners have cared for Bentley's sister Valentina since birth and plan to adopt both children. The mother also has 4 other children that were removed from her care by and adopted out by CPS.	
<input checked="" type="checkbox"/> Duties/Supp			
<input type="checkbox"/> Objections			
<input type="checkbox"/> Video Receipt			
<input checked="" type="checkbox"/> CI Report			
<input type="checkbox"/> 9202			
<input checked="" type="checkbox"/> Order			
<input type="checkbox"/> Aff. Posting			
<input type="checkbox"/> Status Rpt			
<input checked="" type="checkbox"/> UCCJEA			
<input type="checkbox"/> Citation			
<input type="checkbox"/> FTB Notice		<b>Court Investigator Charlotte Bien filed a report on 07/17/13.</b>	
			<b>Reviewed by:</b> JF
			<b>Reviewed on:</b> 07/24/13
			<b>Updates:</b>
			<b>Recommendation:</b>
			<b>File 9 – Martinez</b>

**10 Maria Cardona, Carmelita Cardona and Pedro Armando Sanchez  
(GUARD/P)**

**Atty Sanchez, Rosa Elena (pro per – maternal aunt/Petitioner)**

**Petition for Appointment of Guardian of the Person (Prob. C. 1510)**

<b>Maria, 17</b>	<b>TEMPORARY EXPIRES 07/01/13</b>	<b>NEEDS/PROBLEMS/COMMENTS:</b>  <b>CONTINUED FROM 07/01/13</b> <b>Minute Order from 07/01/13 hearing states: Maria Cardona and Rosa Sanchez are sworn for further inquiry by the Court. The Court is informed that father and the paternal grandparents are in Mexico. The Court waives further notice to the paternal grandparents. Maria Cardona waives notice and consents to the petition. Crystal Cardona waives notice. The Petitioner is directed to cure the remaining defects listed in the examiner notes.</b>  <b>As of 07/24/13, nothing further has been filed and the following notes remain:</b> 1. Need Notice of Hearing. 2. Need proof of personal service at least 15 days before the hearing with a copy of the <i>Petition for Appointment of Guardian of the Person</i> <u>or</u> Consent & Waiver of Notice <u>or</u> Declaration of Due Diligence for: - Pedro Cardona (father) - Carmen Sanchez (mother) - Carmelita Cardona (minor) 3. Need proof of service by mail at least 15 days before the hearing with a copy of the <i>Petition for Appointment of Guardian of the Person</i> <u>or</u> Consent & Waiver of Notice <u>or</u> Declaration of Due Diligence for: - Jesus Sanchez (maternal grandfather) - Rosalinda Sanchez (maternal grandmother) - Rosalinda Benitez (sister)
<b>Carmelita, 15</b>	<b>ROSA ELENA SANCHEZ</b> , maternal aunt, is Petitioner.	
<b>Pedro, 10</b>	Father: <b>PEDRO CARDONA</b>	
	Mother: <b>CARMEN SANCHEZ</b> – Declaration of Due Diligence filed 05/21/13	
<b>Cont. from 070113</b>		
<input type="checkbox"/> <b>Aff.Sub.Wit.</b>	Paternal grandparents: UNKNOWN – Court dispensed with notice on 07/01/13	
<input checked="" type="checkbox"/> <b>Verified</b>		
<input type="checkbox"/> <b>Inventory</b>	Maternal grandfather: JESUS SANCHEZ	
<input type="checkbox"/> <b>PTC</b>	Maternal grandmother: ROSALINDA SANCHEZ	
<input type="checkbox"/> <b>Not.Cred.</b>		
<input type="checkbox"/> <b>Notice of Hrg</b>	Siblings: ROSALINDA BENITEZ (21), CRYSTAL CARDONA (20)	
<input type="checkbox"/> <b>Aff.Mail</b>		
<input type="checkbox"/> <b>Aff.Pub.</b>	<b>Petitioner states</b> that guardianship is necessary for the safety of the children. The mother has been violent towards the children due to drug abuse. There is a pending, ongoing CPS investigation of the mother because she is verbally and physically abusive to the children.	
<input type="checkbox"/> <b>Sp.Ntc.</b>		
<input type="checkbox"/> <b>Pers.Serv.</b>		
<input checked="" type="checkbox"/> <b>Conf. Screen</b>	<b>Objection to Guardianship was filed by CARMEN CHILDRESS, mother, on 5/10/2013</b> , stating in brief sum, that she has always loved her children unconditionally, and she is asking the Court to allow her to gain custody of her children; she will do all in her power to provide, maintain and protect her children at all times; she is in the process of attaining a place of residence and a means of financial support; if given the opportunity she can accomplish all that is necessary to bring her family together again; her children are the most important part of her life; she is not the individual that certain individuals have made her out to be.	
<input checked="" type="checkbox"/> <b>Letters</b>		
<input checked="" type="checkbox"/> <b>Duties/Supp</b>		
<input checked="" type="checkbox"/> <b>Objections</b>		
<input type="checkbox"/> <b>Video Receipt</b>		
<input checked="" type="checkbox"/> <b>CI Report</b>		
<input type="checkbox"/> <b>9202</b>		
<input checked="" type="checkbox"/> <b>Order</b>		
<input type="checkbox"/> <b>Aff. Posting</b>	<b>Court Investigator Jennifer Young filed a report on 06/24/13.</b>	
<input type="checkbox"/> <b>Status Rpt</b>		
<input checked="" type="checkbox"/> <b>UCCJEA</b>		
<input type="checkbox"/> <b>Citation</b>		
<input type="checkbox"/> <b>FTB Notice</b>		
		<b>Reviewed by:</b> JF
		<b>Reviewed on:</b> 07/24/13
		<b>Updates:</b>
		<b>Recommendation:</b>
		<b>File 10 – Cardona &amp; Sanchez</b>

**Amended Petition for Probate of Will and for Letters Testamentary; Authorization to Administer Under IAEA (Prob. C. 8002, 10450)**

<b>DOD: 01/04/2013</b>	<b>FRANCES YBARRA</b> , sister, is petitioner.		<b>NEEDS/PROBLEMS/COMMENTS:</b>  1. The caption on the petition requests <i>Probate of Will and Letters Testamentary</i> however the petition states the decedent died intestate. If decedent died without a will the petitioner should request <i>Letters of Administration</i> .  2. Petition states decedent died intestate. Petitioner requests appointment as executor and as administrator, if decedent died without a will petitioner should request appointment as administrator.  3. #2d(1) states bond is not required however #2d(2) states bond set at \$14,000.00. Please clarify.  4. #3d(2) of the petition states all beneficiaries are adults and waive bond. Need signed waivers of bond from all beneficiaries. • Erik Ybarra Or bond set at \$14,000.00  5. #5a(3) or #5a(4) was not answered regarding domestic partner.  6. #5a(7) or #5a(8) was not answered regarding issue of predeceased child.  <b><u>Please additional page for Status Hearings</u></b>
<b>Cont. from 062413</b>	Full IAEA – o.k.		
<input type="checkbox"/> <b>Aff.Sub.Wit.</b>			
✓ <b>Verified</b>			
<input type="checkbox"/> <b>Inventory</b>	Decedent died intestate.		
<input type="checkbox"/> <b>PTC</b>			
<input type="checkbox"/> <b>Not.Cred.</b>	Residence: Fresno		
✓ <b>Notice of Hrg</b>	Publication: The Business Journal		
✓ <b>Aff.Mail</b>	w/		
✓ <b>Aff.Pub.</b>			
<input type="checkbox"/> <b>Sp.Ntc.</b>			
<input type="checkbox"/> <b>Pers.Serv.</b>			
<input type="checkbox"/> <b>Conf. Screen</b>			
✓ <b>Letters</b>	<b>Note:</b> The estimated value of the estate is misleading. The real property is estimated at \$108,000.00 with encumbrances at \$104,000.00.		
✓ <b>Duties/Supp</b>			
<input type="checkbox"/> <b>Objections</b>			
<input type="checkbox"/> <b>Video Receipt</b>	Probate Referee: Steven Diebert		
<input type="checkbox"/> <b>CI Report</b>			
<input type="checkbox"/> <b>9202</b>			
✓ <b>Order</b>			
<input type="checkbox"/> <b>Aff. Posting</b>			
<input type="checkbox"/> <b>Status Rpt</b>			
<input type="checkbox"/> <b>UCCJEA</b>			
<input type="checkbox"/> <b>Citation</b>			
<input type="checkbox"/> <b>FTB Notice</b>			

<b>Reviewed by:</b> LV
<b>Reviewed on:</b> 07/25/2013
<b>Updates:</b>
<b>Recommendation:</b>
<b>File 11A – Ybarra</b>



**Note:** If the petition is granted status hearings will be set as follows:

- **Friday, 01/03/2014 at 9:00a.m. in Dept. 303** for the filing of the inventory and appraisal **and**
- **Friday, 10/03/2014 at 9:00a.m. in Dept. 303** for the filing of the first account and final distribution.

Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.

<b>Age: 9</b>  <b>Cont. from</b> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr><td style="width: 10%;"></td><td style="width: 80%;">Aff.Sub.Wit.</td><td style="width: 10%;"></td></tr> <tr><td>✓</td><td>Verified</td><td></td></tr> <tr><td></td><td>Inventory</td><td></td></tr> <tr><td></td><td>PTC</td><td></td></tr> <tr><td></td><td>Not.Cred.</td><td></td></tr> <tr><td></td><td>Notice of Hrg</td><td>x</td></tr> <tr><td></td><td>Aff.Mail</td><td>x</td></tr> <tr><td></td><td>Aff.Pub.</td><td></td></tr> <tr><td></td><td>Sp.Ntc.</td><td></td></tr> <tr><td></td><td>Pers.Serv.</td><td>x</td></tr> <tr><td>✓</td><td>Conf. Screen</td><td></td></tr> <tr><td>✓</td><td>Letters</td><td></td></tr> <tr><td>✓</td><td>Duties/Supp</td><td></td></tr> <tr><td></td><td>Objections</td><td></td></tr> <tr><td></td><td>Video Receipt</td><td></td></tr> <tr><td>✓</td><td>CI Report</td><td></td></tr> <tr><td></td><td>9202</td><td></td></tr> <tr><td>✓</td><td>Order</td><td></td></tr> <tr><td></td><td>Aff. Posting</td><td></td></tr> <tr><td></td><td>Status Rpt</td><td></td></tr> <tr><td>✓</td><td>UCCJEA</td><td></td></tr> <tr><td></td><td>Citation</td><td></td></tr> <tr><td></td><td>FTB Notice</td><td></td></tr> </table>		Aff.Sub.Wit.		✓	Verified			Inventory			PTC			Not.Cred.			Notice of Hrg	x		Aff.Mail	x		Aff.Pub.			Sp.Ntc.			Pers.Serv.	x	✓	Conf. Screen		✓	Letters		✓	Duties/Supp			Objections			Video Receipt		✓	CI Report			9202		✓	Order			Aff. Posting			Status Rpt		✓	UCCJEA			Citation			FTB Notice		<p style="text-align: center;"><b><u>TEMPORARY EXPIRES 07/29/13</u></b></p> <p><b>DARRELL CARTER, SR.</b>, paternal grandfather, is Petitioner.</p> <p>Father: <b>DARRELL CARTER, JR.</b></p> <p>Mother: <b>EBONY JOHNSON</b></p> <p>Paternal grandmother: ROSEMARY JOHNSON</p> <p>Maternal grandfather: JB JOHNSON</p> <p>Maternal grandmother: GWEN BABERS</p> <p>Siblings: EDEN JOHNSON, DARIEON CARTER, KEVIN CARTER (ages not stated)</p> <p><b>Petitioner alleges</b> that the father was awarded custody of the minor last year, but neither parent is currently available to care for the minor. The parents have drug addiction issues and are either incarcerated or their whereabouts are currently unknown. The minor needs a stable environment that gives her the opportunity to succeed in life.</p> <p><b>Court Investigator Jo Ann Morris filed a report on 07/18/13.</b></p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <ol style="list-style-type: none"> <li>1. Need Notice of Hearing.</li> <li>2. Need proof of personal service at least 15 days before the hearing of <i>Notice of Hearing</i> with a copy of the <i>Petition for Appointment of Guardian of the Person</i> <u>or</u> Consent &amp; Waiver of Notice <u>or</u> Declaration of Due Diligence for:             <ul style="list-style-type: none"> <li>- Darrell Carter, Jr. (father)</li> <li>- Ebony Johnson (mother)</li> </ul> </li> <li>3. Need proof of service by mail at least 15 days before the hearing of <i>Notice of Hearing</i> with a copy of the <i>Petition for Appointment of Guardian of the Person</i> <u>or</u> Consent &amp; Waiver of Notice <u>or</u> Declaration of Due Diligence for:             <ul style="list-style-type: none"> <li>- Rosemary Johnson (paternal grandmother)</li> <li>- JB Johnson (maternal grandfather)</li> <li>- Gwen Babers (maternal grandmother)</li> </ul> </li> </ol>
	Aff.Sub.Wit.																																																																						
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		<b>Recommendation:</b>																																																																					
		<b>File 12 – Carter</b>																																																																					

**Reconsideration of the Temporary Guardianship**

Patricia age: 17		<p align="center"><b><u>TEMPORARY EXPIRES 7/29/2013</u></b></p> <p align="center"><b><u>GENERAL HEARING 8/19/2013</u></b></p> <p><b>PATRICIA ANN VASQUEZ</b>, ward, is petitioner and requests <b>KIRA CHRISTINE RAMIREZ</b>, cousin, and <b>HELEN RAMIREZ</b>, aunt, be appointed as temporary guardian.</p> <p>Father: <b>LEONARDO VASQUEZ</b> – <i>consents and waives notice.</i></p> <p>Mother: <b>PATRICIA VASQUEZ</b> - <i>consents and waives notice.</i></p> <p>Paternal grandparents: Deceased  Maternal grandfather: Deceased  Maternal grandmother: Unknown</p> <p><b>Petitioner states</b> Helen Ramirez was appointed as the children's guardian in Texas. She has Stage 4 cancer in the liver and stomach. Helen and Kira would like to be sure the children remain in California and benefit from the stability of their new home. In light of Helen's diagnosis, Kira would like to be added as co-guardian as soon as possible.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p>	
Leonardo age: 13				
Cont. from				
	Aff.Sub.Wit.			
✓	Verified			
	Inventory			
	PTC			
	Not.Cred.			
	Notice of Hrg			N/A
	Aff.Mail			
	Aff.Pub.			
	Sp.Ntc.			
	Pers.Serv.			
✓	Conf. Screen			
✓	Letters			
✓	Duties/Supp			
	Objections			
	Video Receipt			
	CI Report			
	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
✓	UCCJEA			
	Citation			
	FTB Notice			
<p><b>Reviewed by: KT</b></p> <p><b>Reviewed on: 7/25/2013</b></p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 16 – Vasquez</b></p>				

Petition for Appointment of Temporary Guardianship of the Person (Prob. C. 2250)

Vashti age: 5		<b>GENERAL HEARING 9/25/2013</b>		<b>NEEDS/PROBLEMS/COMMENTS:</b>	
Tenton age: 2 mo.		CLOTILDE BROWN, maternal grandmother, is petitioner.		1. Need Notice of Hearing.	
		Father (Vashti): <b>UNKNOWN</b>		2. Need proof of personal service of the Notice of Hearing along with a copy of the Temporary Petition or Consent and Waiver of Notice or Declaration of Due Diligence on:	
Cont. from		Father (Trenton): <b>JOHN ADAMS</b>		a. Vashti's father	
<input type="checkbox"/>	Aff.Sub.Wit.			b. John Adams (Trenton's father)	
<input checked="" type="checkbox"/>	Verified	Mother: <b>NOVELL BROWN</b>		c. Novell Brown (mother)	
<input type="checkbox"/>	Inventory	Paternal grandparents: unknown			
<input type="checkbox"/>	PTC	Maternal grandfather: James Brown – deceased.			
<input type="checkbox"/>	Not.Cred.				
<input type="checkbox"/>	Notice of Hrg	<b>Petitioner states</b> a temporary guardianship is necessary to provide for the children's medical and educational needs.			
<input type="checkbox"/>	Aff.Mail				
<input type="checkbox"/>	Aff.Pub.				
<input type="checkbox"/>	Sp.Ntc.				
<input type="checkbox"/>	Pers.Serv.	<input checked="" type="checkbox"/>			
<input checked="" type="checkbox"/>	Conf. Screen				
<input checked="" type="checkbox"/>	Letters				
<input checked="" type="checkbox"/>	Duties/Supp				
<input type="checkbox"/>	Objections				
<input type="checkbox"/>	Video Receipt				
<input type="checkbox"/>	CI Report				
<input type="checkbox"/>	9202				
<input checked="" type="checkbox"/>	Order				
<input type="checkbox"/>	Aff. Posting			Reviewed by: KT	
<input type="checkbox"/>	Status Rpt			Reviewed on: 7/25/2013	
<input checked="" type="checkbox"/>	UCCJEA			Updates:	
<input type="checkbox"/>	Citation			Recommendation:	
<input type="checkbox"/>	FTB Notice			File 14 – Winchester & Adams	

## Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Darlene Age: 14		<p><b>THERE IS NO TEMPORARY.</b> <b>Temporary was denied.</b></p> <p><b>VALERIE ALCALA</b>, maternal aunt, is petitioner.</p> <p>Father: <b>RICHARD VICTOR ESCALON</b></p> <p>Mother: <b>MONECA ALCALA</b></p> <p>Paternal Grandparents: Not Listed</p> <p>Maternal Grandfather: Not Listed</p> <p>Maternal Grandmother: Brenda Garza</p> <p><b>Petitioner states:</b> that her nieces are living in an unsafe environment, they have been moving from house to house and missing a lot of school. Mother has failed to comply with SARB on numerous occasions. She leaves the children for weeks at a time in places with no PG&amp;E.</p> <p><b>Court Investigator Julie Negrete's Report filed on 7/19/2013</b></p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <ol style="list-style-type: none"> <li>1. Need Notice of Hearing.</li> <li>2. Need proof of personal service of the Notice of Hearing along with a copy of the Petition for Appointment of Guardian or Consent and Waiver of Notice or Declaration of Due Diligence for:               <ol style="list-style-type: none"> <li>a. Richard Victor Escalon (Father)</li> <li>b. Moneca Alcala (Mother)</li> <li>c. Darlene Escalon (Minor)</li> <li>d. Melissa Escalon (Minor)</li> </ol> </li> <li>3. Need proof of service of the Notice of Hearing along with a copy of the Petition for Appointment of Guardian or Consent and Waiver of Notice or Declaration of Due Diligence for:               <ol style="list-style-type: none"> <li>a. Paternal grandparents</li> <li>b. Maternal grandfather</li> <li>c. Brenda Garza (maternal grandmother)</li> </ol> </li> <li>4. Need Child Information Attachment GC-210(CA) for minor child Melissa Escalon.</li> </ol>	
Melissa Age: 12				
<b>Cont. from</b>				
	<b>Aff.Sub.Wit.</b>			
✓	<b>Verified</b>			
	<b>Inventory</b>			
	<b>PTC</b>			
	<b>Not.Cred.</b>			
	<b>Notice of Hrg</b>			X
	<b>Aff.Mail</b>			X
	<b>Aff.Pub.</b>			
	<b>Sp.Ntc.</b>			
	<b>Pers.Serv.</b>			X
✓	<b>Conf. Screen</b>			
✓	<b>Letters</b>			
✓	<b>Duties/Supp</b>			
	<b>Objections</b>			
	<b>Video Receipt</b>			
✓	<b>CI Report</b>			
	<b>9202</b>			
✓	<b>Order</b>			
	<b>Aff. Posting</b>			
	<b>Status Rpt</b>			
✓	<b>UCCJEA</b>			
	<b>Citation</b>			
	<b>FTB Notice</b>			
		<p><b>Reviewed by: KT</b></p> <p><b>Reviewed on: 7/25/2013</b></p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 15 – Escalon</b></p>		

Deionta, 17		<p><b><u>TEMPORARY GRANTED EX PARTE;</u></b> <b><u>EXPIRES 07/29/13</u></b></p> <p><b><u>GENERAL HEARING: 09/10/13</u></b></p> <p><b>BRENDA TRAYLOR</b>, cousin, is Petitioner.</p> <p>Father: <b>SHEON FRIERSON</b> Mother: DECEASED</p> <p>Paternal grandparents: DECEASED</p> <p>Maternal grandparents: DECEASED</p> <p><b>Petitioner states</b> that a temporary guardianship is necessary so that she can enroll the minors into the second session of summer school.</p>	<p><b>NEEDS/PROBLEMS/COMMENTS:</b></p> <ol style="list-style-type: none"> <li>1. Need Duties of Guardian.</li> <li>2. Need Notice of Hearing.</li> <li>3. Need proof of personal service at least 5 court days before the hearing of Notice of Hearing with a copy of the <i>Petition for Appointment of Temporary Guardian of the Person</i> <u>or</u> Consent &amp; Waiver of Notice <u>or</u> Declaration of Due Diligence for: <ul style="list-style-type: none"> <li>- Sheon Frierson (father)</li> <li>- Deionta Frierson (minor)</li> <li>- Daveon Frierson (minor)</li> </ul> </li> <li>4. UCCJEA is incomplete and only lists the minor's residence address since 05/2013. Need completed UCCJEA with residence information for the past 5 years.</li> </ol>
Daveon, 15			
Cont. from			
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input type="checkbox"/>	Notice of Hrg	x	
<input type="checkbox"/>	Aff.Mail		
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.	x	
<input checked="" type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters	x	
<input type="checkbox"/>	Duties/Supp	x	
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input type="checkbox"/>	Order	x	
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input checked="" type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
<p><b>Reviewed by:</b> JF</p> <p><b>Reviewed on:</b> 07/25/13</p> <p><b>Updates:</b></p> <p><b>Recommendation:</b></p> <p><b>File 16 – Frierson</b></p>			